

General Council
24 April 1998

MINUTES OF MEETING

Held in the Centre William Rappard
on 24 April 1998

Chairman: Mr. J. Weekes (Canada)

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1. Conditions of service of WTO staff

The Chairman recalled that despite intensive efforts in late 1997 by all Members concerned, it had not been possible to take a decision on the question of conditions of service of WTO staff. Since then, consultations had continued with a view to overcoming the difficulties that had prevented certain Members from joining the emerging consensus on this issue. As a result of these consultations, a new draft decision had been prepared and circulated to Members (WT/GC/W/83). As the new draft came after more than four years of protracted and difficult discussions, it represented a delicate compromise and a genuine effort to achieve the long-awaited breakthrough on the question of conditions of service. Before proceeding to the adoption of the draft decision, he read the following statement for the record:

"In the course of the consultations which I have held on the draft decision on Conditions of Service Applicable to the Staff of the WTO Secretariat, a number of Members have raised questions with respect to the intention of certain parts of the decision. The following statement is intended to clarify those intentions. In adopting the decision in document WT/GC/W/83 WTO Members will take the decision today to establish a permanent WTO Secretariat with its own regulations and rules. This is an extremely important step, building on the Marrakesh Ministerial Decision, and, I know, has only been possible because of the hard work of many representatives and officials both in Geneva and in capitals. In adopting this decision today, the General Council will stress, in the Preamble, the need for efficiency gains, improved priority-setting and other savings to ensure cost-neutrality in the WTO budget. In that respect, we must remember that the WTO budget reflects the requirements that Members place upon the organization, including in such essential areas as technical assistance, translation, dispute settlement and accession of new members, all areas in which the pressure for work has consistently been increasing since the establishment of the WTO. We are also putting increasing demands on the Director-General and the Secretariat with respect to the follow-up of the High Level Meeting for the Least Developed Countries. Moreover, various Members have put forward ideas on implementation and future activities of the WTO in the context of the preparation of the May Ministerial Conference, which may well place further strains on the resources of the Secretariat. In this light, I would remind Members that the decision we shall adopt today is a decision on the conditions of service applicable to the staff of the WTO Secretariat. It is not, in any way, a decision on the budget of the organization in future years. Decisions on the budget of the WTO will, of course, be taken each year in accordance with established procedures; I know that all Members would expect the current high level of service of the Secretariat to be maintained.

"In setting 1 January 1999 as the target date for the establishment of the WTO Secretariat, it is important to recall that this issue has now been on the table for over four years. Every effort should be made to avoid any further postponement of the establishment of the Secretariat beyond 1 January 1999. In other words, 1 January 1999 should be seen as the

deadline. The decision we adopt today will require serious efforts from all of us in order to establish the permanent WTO Secretariat by 1 January 1999. First, the Working Group on Conditions of Service Applicable to the Staff of the WTO Secretariat must draft a detailed proposal that meets the criteria specified in this decision. Second, it will be subject to actuarial review. Third, the General Council will have to adopt the proposal and authorize the Director-General to inform the United Nations Joint Staff Pension Fund that the ICITO wishes to apply for termination of its membership in the Fund. In order that we may begin this process as soon as possible and meet our deadline of 1 January 1999, I have held consultations on the appointment of a new Chairman of the Working Group. With your agreement, I propose that Mr. R. Farrell (New Zealand) take on this Chairmanship.¹ I expect that you will all receive a communication very shortly from the Chairman as to the date on which the Working Group will resume its work.

"The decision provides guidance to the Working Group on the parameters of the proposal it is to develop. Paragraph one of the Annex provides that at the outset the proposal must not provide salary and benefit levels that in the aggregate exceed salary and benefit levels in the UN Common System, it being understood that the only meaningful way of measuring those levels will be in cost terms. However, within those parameters, the proposal may provide for redistribution of benefits, including within the proposed pension plan, provided that they are targeted at specifically defined problems. While at the outset the UN Common System will serve as a ceiling with respect to salary and benefit levels, it will also serve as a floor. Nothing in the Decision or the Annex will worsen the salary and benefit levels that present staff members of the WTO Secretariat enjoy. Pursuant to paragraph two of the Annex, the proposal must contain a projection showing that proposed salary and benefit levels, including administrative and other related costs, will be cost neutral over the next five to seven years. In other words, it must be established that the projected costs of the proposed system will not exceed the projected costs of the UN Common System during this time frame. By remaining within these parameters, the proposal that we will adopt will be cost neutral as compared with the UN Common System. In conclusion, I would like to propose that the draft decision in WT/GC/W/83 now be adopted in the light of this statement."

The General Council adopted the draft decision in the light of the Chairman's statement (WT/L/269).

The representative of Germany said that his Government accepted the Decision just adopted as a basis for the work of establishing the conditions of service applicable to the staff of the WTO Secretariat, and wished to declare the following: (i) Germany understood the Decision in such a way that in the aggregate the salary and benefit level of the UN Common System were accepted as the absolute ceiling for the salary and benefit levels of WTO; it would monitor the proposal of the Working Group carefully in this respect and reserved its final positions; (ii) Germany would insist as well in the future on the principle that in the aggregate the salary and benefits level of the WTO should not exceed the comparable salary and benefit levels in the UN Common System; and (iii) Germany would not accept any supplementary budgetary guarantee for the payment of pensions in case the Working Group opted for an independent WTO pension scheme. An independent WTO scheme would therefore have to be a contribution-defined system.

The representative of the United Kingdom said that his delegation was glad to associate itself with the Decision just taken on the conditions of service to be applied to the staff of the Secretariat, of whom his delegation thought highly. The Decision provided for the establishment of the Secretariat with its own rules and regulations by 1 January 1999 provided certain clear conditions were met. This

¹The General Council agreed to the proposal.

Decision had been carefully drafted, and his delegation attached great importance to the conditions it contained. Having listened carefully to the statement made by the Chairman on his own authority, he wished to stress that for the United Kingdom the Decision was unambiguous and did not require any interpretative gloss. For the United Kingdom, the decision would be the authoritative text in the event of any future difference of opinion on what had been agreed to at the present meeting. Referring to the disruption of delegates' parking which had taken place, he said that his delegation had been tempted to make its assent to the Decision conditional upon an assurance from the Staff Council that they would put a stop to this disruption forthwith. However, it had believed that this might be to make the same mistake as those that had inflicted this inconvenience on delegations. Instead, he appealed to the staff to recognize that alienating delegates was not the best way of achieving their objectives.

The representative of the United States said that Members had taken a decision to take the first step towards an independent WTO compensation and personnel system. This issue had been under consideration for two and a half years. The United States had consistently voiced its commitment to the establishment of an independent WTO and to the consideration of the eventual establishment of a compensation and personnel plan independent from the UN Common System. In the Decision just taken, an important principle of the proposed independent WTO system of salaries and pensions was that the system should be demonstrably cost-neutral as compared with what would be the case if the UN Common System were still applied de facto to the Secretariat. The new system, in other words, should not have an initial or projected impact on the WTO's budget. While this information should not come as a surprise to any Member, she was nevertheless obliged to state for the record that it was the position of the United States that the future annual budgets of the WTO should reflect no growth, expressed in nominal terms. In their Decision, Members had affirmed the long standing practice of making decisions on budgetary and administrative matters by consensus. It was the intent of the United States to withhold consensus on any proposed WTO budget which did not reflect the philosophy of zero nominal growth.

The representative of France expressed full support for the Decision, which was clear and precise and set out the conditions on which an independent Secretariat could be established. It was on the basis of this Decision that her delegation would participate actively in the work of the Working Group that was going to be established. Her delegation was fully confident that the Secretariat of the WTO would be established by 1 January 1999.

The representative of Venezuela, speaking on behalf of the Latin American and Caribbean Group (GRULAC), supported the Decision that had been adopted. The Decision was a balanced response to the situation, met the legitimate expectations of WTO staff to improve their working conditions, and created an independent Secretariat for the organization with the required autonomy. This would benefit all WTO Members, as the main users of the WTO. The Decision, however, should not have a budgetary impact on the organization. He reiterated the readiness of GRULAC countries to cooperate in a constructive manner in the work of the Working Group which still had to deal with a number of issues.

The representative of Egypt wished to reconfirm his delegation's understanding that the Decision would neither affect budgetary allocations for technical assistance nor result in any increase in contributions. Egypt, in particular, had been paying a higher contribution than it should have been, and this was a matter his delegation would raise in other fora.

The representative of Norway expressed his delegation's satisfaction at the Decision just taken because it finally honoured the commitment made by Members at Marrakesh. He hoped that the Decision would contribute to Members' credibility, especially vis-à-vis those who worked in the Secretariat. The political signal of the Decision was therefore paramount. However, there were certain formulas in the Decision and its Annex with which Norway was not happy. In particular, in paragraph 2 of the Annex, reference was made to a five to seven year time span. His delegation's interpretation of

this formula was that it was a forecast and not a strict, legally binding formula. If this was not a correct interpretation, he believed that Members would, by the very words of paragraph 2 of the Annex, in reality neutralize by one hand the decision made by the other to establish the WTO as a *sui generis* organization outside the UN system. Norway had serious concerns on this issue, but they were not of a nature that would lead it to block a consensus, because Members had now to take operational decisions as they had just done.

The representative of Hong Kong, China said that it would be unfortunate if the record showed a preponderance of comments from one perspective on this important proposal. In the view of his delegation, a majority of Members fully supported a firm decision now on establishing the Secretariat as a separate body as soon as possible and on terms that were fair to the staff. The Chairman's statement, in his view, accurately reflected the views of many Members, including Hong Kong, China. In particular, he agreed with the Chairman that the Decision was not in any sense one on the budget of the WTO in future years, because this budget would have many demands placed on it. He also agreed with the Chairman that no efforts should be spared to avoid any further postponement of the establishment of the Secretariat beyond 1 January 1999, and that the proposal to be developed needed only to provide that, at the outset, aggregate salary and benefit levels would not exceed those in the UN Common System.

The representative of Korea welcomed the adoption of the Decision, as well as the Chairman's statement with regard thereto. However, in the light of Korea's position in favour of an early settlement of this matter, it was regrettable that Members could not establish the secretariat of this *sui generis* organization earlier than 1 January 1999. That being said, his delegation welcomed the resumption of the work of the Working Group, and would participate closely in its proceedings. Korea hoped there would be no further delays in establishing an independent WTO Secretariat beyond 1 January 1999.

The representative of Brunei Darussalam, speaking on behalf of the ASEAN Members, expressed support for the Decision, and hoped that Members would proceed smoothly to the establishment of a permanent WTO Secretariat.

The representative of Bangladesh said his delegation wished to echo Egypt's view that the arrangements regarding conditions of service should not in any way adversely affect the quantity of technical assistance, particularly to the least-developed countries. Also, the arrangements should not in any way result in increased contributions by developing countries, and particularly the least-developed amongst them.

The representative of the Netherlands said that her Government joined the consensus in the adoption of this Decision as a basis for the work of establishing the conditions of service applicable to the staff of the WTO Secretariat. In doing so, it declared the following: (i) the Netherlands fully agreed with the Chairman that the present Decision was one on conditions of service, and not on the budget of the organization in future years. While the WTO, as any organization, must continue to strive for a maximum of cost efficiency, the Netherlands believed that nothing in the Decision could be construed so as to deny the organization the means it would need for an adequate fulfilment of its tasks in future; (ii) the Netherlands would continue to participate constructively in the Working Group that would have to begin its work as soon as possible. Her delegation would be guided in that process by two main principles: First, the continuing concern about the possible negative repercussions that an independent WTO system could have on the UN Common System and the possibility of its reform and, second, as her delegation had often stated in earlier Working Group discussions, her Government's view that any pension scheme should be self-financing on the basis of contributions. Within the WTO, her Government could not accept that Members would ultimately have to guarantee pension benefits. This had been the consistent policy of the Netherlands both in the national context and in other international organizations.

The Director-General expressed satisfaction that Members had been able to adopt the Decision to establish a permanent WTO Secretariat with its own regulations and rules. All agreed that this was an extremely important step that had to be seen in the context of the growing tasks and responsibilities which Members themselves were assigning to the organization and to its staff. Members liked to recall, rightly, that the WTO was a Member-driven organization. For this reason, in taking the decision to establish an independent Secretariat, Members were increasing their direct responsibility for its proper functioning. Also for this reason, in his capacity as Director-General, he wished to underline that the Chairman's statement meant that, in respect of all aspects of the WTO budget, nothing in the Decision that had been taken could limit the rights and obligations of Members in the exercise of their responsibilities in accordance with established procedures. As Members were aware, the Secretariat staff felt the need to move forward in order to guarantee the normal activity of this organization, but the strong sense of responsibility that they had demonstrated did not mean they felt that their expectations had been adequately addressed. The staff hoped that in the Working Group there would be a new constructive spirit and a willingness to implement all the agreements reached in the most favourable and positive light. He added that he fully shared the staff's point of view.

The General Council take note of the statements.

2. Bhutan - Request for observer status (WT/L/262)

The Chairman drew attention to the communication from Bhutan requesting observer status in the General Council and its subsidiary bodies (WT/L/262), in which Bhutan had indicated its intention to apply for accession to the WTO Agreement and had provided a brief description of its economy and foreign trade regime, in accordance with the guidelines for observer status for governments in the WTO (WT/L/161, Annex 2). He proposed that Bhutan's request be granted.

The General Council so agreed.

The representatives of India, Bangladesh, Brunei on behalf of the ASEAN Members and Pakistan welcomed and supported the granting of observer status to Bhutan, which would enable it to become better acquainted with WTO's work and facilitate its accession to the WTO Agreement. The representatives of India and Pakistan underlined the importance of their close relations with Bhutan, and assured Bhutan of their support and cooperation in its accession process.

The representative of India said that Bhutan was rich in natural reserves and resources. India had had the privilege of being the principal participant in Bhutan's development efforts, especially in the infrastructure and hydro-power sectors. In this endeavour, India had taken particular care to fully appreciate and respect Bhutan's views and concerns regarding its economic development and the preservation of its extraordinary social, cultural and environmental heritage.

The representative of Bangladesh noted that Bhutan was a member of the South Asian Association for Regional Cooperation (SAARC) and believed that its presence would strengthen the WTO and would be beneficial to the multilateral trading system.

The Chairman, on behalf of the General Council, welcomed Bhutan as an observer and assured it of Members' cooperation in its future accession negotiations.

The representative of Bhutan, speaking as an observer, expressed gratitude to the General Council for having granted his government observer status and to Members for their expressions of support and cooperation. Bhutan intended to make full use of its observer status to study the role, functions and work of the WTO. His delegation looked forward to the valuable support and guidance from

Members and the Secretariat as Bhutan engaged actively in the process of learning and preparation toward a speedy accession.

The General Council took note of the statements.

3. Committee on Budget, Finance and Administration
- Report of the Committee (WT/BFA/35)

Mr. Meier (Switzerland), Chairman of the Committee on Budget, Finance and Administration, introducing the Committee's report on its meeting of 12 March (WT/BFA/35), said that the Committee had continued its discussions with regard to the use of the balance of the 1996 surplus on the basis of a draft resolution prepared by his predecessor. The vast majority of delegations had indicated that they could support the draft resolution even though some would have preferred to see the funds allocated to other purposes. One delegation, however, had indicated that it could not support the provision of funds from the surplus for the WTO programme for technical assistance or for augmenting resources to assist developing countries requesting the services of a legal expert under Article 27.2 of the Dispute Settlement Understanding. Ultimately, the Committee had noted that no consensus could be reached on the utilization of the balance of the 1996 surplus and that discussions thereon should continue.

With regard to UN/WTO cooperation with regard to ITC budgetary arrangements, he recalled that in 1997, the International Trade Centre UNCTAD/WTO had presented its budget in compliance with the requirement of both the UN and the WTO, which had created considerable technical difficulties and had resulted in an inefficient use of resources. His predecessor and officials from the WTO and ITC had discussed this matter in New York with the UN. It had been agreed that the Secretariat would prepare a factual note on the question of budgetary aspects of cooperation between the UN and the WTO concerning the ITC, and that it would be useful to have contacts when the Advisory Committee on Administrative and Budgetary Questions (ACABQ) met in Geneva in June. These contacts were presently scheduled for early June and the matter would be followed up in the Committee's mid-June meeting.

With respect to Members in Category IV of the WTO Administrative Measures, and pursuant to the decision of the Preparatory Committee of the WTO that at the beginning of the year the Committee should report to the General Council on Members with three or more years of outstanding contributions, the Committee recommended that the Members listed in paragraph 16 of the report be urged to liquidate their arrears.

Among matters to be dealt with in 1998, the Committee would undertake a review of the new system for the calculation of assessments to the WTO budget which had been in place now for three years. The Committee had agreed in November 1997 to also examine the level of the minimum contribution in the context of identifying possible measures in favour of least-developed countries. The Committee had also agreed to establish a working group to review the system of assessments but had considered that the question of the minimum contribution should be dealt with in the Committee itself. The Working Group, which would be chaired by Mr. Sándor Simon (Hungary), would hold its first meeting soon.

With regard to a request from a Member in Category IV which was not a least-developed country to have access to technical assistance and training, the Committee had discussed the issue and had identified a solution (paragraphs 23-26 of the report). Based on the discussions, consultations had begun with a view to attempting to identify a generic approach to the question.

The General Council took note of the statement, approved the Budget Committee's specific recommendation in paragraph 16 of its report in WT/BFA/35, and adopted the report.

4. Committee on Balance-of-Payments Restrictions
- Consultation with Nigeria (WT/BOP/R/41)

Mr. Jenkins (United Kingdom), Chairman of the Committee, said that at the resumed consultation with Nigeria on 11-12 February, the Committee had had before it a proposal from Nigeria (WT/BOP/N/32/Add.1) for the elimination of outstanding import prohibitions justified under Article XVIII:B over a five-year period. The Committee had been unable to come to a consensus on this proposed time-schedule, or to agree on specific proposals for recommendations by the General Council. Accordingly, the report before the General Council recorded the different views expressed in the Committee, as required by paragraph 13 of the Understanding on the Balance-of-Payments Provisions of the GATT 1994.

The representative of the United States said her Government was disappointed that Nigeria had ignored the concerns of the large majority of Committee members that it should promptly eliminate certain import measures justified under Article XVIII:B. The Committee had indicated to Nigeria on four separate occasions that these measures were inconsistent with its WTO obligations. Yet Nigeria had chosen in response to continue to maintain these WTO-inconsistent import measures for four more years until 2002. The United States hoped that Nigeria would take steps as soon as possible to bring its measures into conformity with the WTO Agreement. If the measures could not be eliminated immediately, Nigeria should explore agreement with Members on their elimination as soon as possible within a precise timetable and seek a waiver under Article IX of the WTO Agreement to provide legal cover during the period in which they were being eliminated. The United States was interested in continuing informal consultations with Nigeria and other interested Members to this end with the hope that this matter could be satisfactorily resolved in the General Council in the near future. In the meantime, Nigeria should keep the General Council informed in future meetings of progress towards eliminating these measures until such an agreement had been reached among Members.

The representative of the European Communities expressed regret that the Committee had been unable to agree to conclusions to consultations on Nigeria's import restrictions under Article XVIII. His delegation wished to draw attention to two important elements as regards these restrictions. Already before the resumption of consultations on 11-12 February, the Committee had determined that Nigeria could not justify its import restrictions under BOP provisions and had therefore the obligation to eliminate its measures under Article XVIII:B. Even if Nigeria's BOP situation had been such as foreseen in Article XVIII:B, the modalities of the import restrictions were not in conformity with the requirements thereof, and should be removed in accordance with paragraph 11 of that Article. Before the consultations in February, Nigeria had had a significant period of time to eliminate these measures. The Committee had suspended consultations four times in two years to allow Nigeria to bring its measures into conformity. The time during which Nigeria had continued to apply GATT incompatible import restrictions gave rise to much concern among Members. The European Communities attached high priority to the correct application of the BOP provisions, so as to ensure that they were used by Members facing a BOP crisis requiring temporary measures, and only by Members in such conditions. The full respect of Articles XII and XVIII of the GATT as well as the Understanding on the BOP Provisions of GATT 1994 was of great importance, and in recent years many Members had disinvoked Article XVIII as their BOP position had improved. The European Communities urged Nigeria to eliminate its remaining import restrictions without further delay so as to bring its measures into conformity with WTO rules.

The representative of Canada expressed regret that it had not been possible to reach agreed conclusions at the February meeting of the Committee. At that meeting, Canada had noted that Nigeria had made efforts to revise its phase-out plan to remove its import restrictions by 2002, but had underscored that the phase-out plan was still too long and this continued to be his delegation's view. Any delays in the phase out would undermine progress in Nigeria's reform programme and the confidence

of domestic and foreign investors. Moreover, Canada considered that Nigeria could not justify these measures under BOP provisions and therefore urged Nigeria to bring its measures into conformity.

The representative of Australia shared the concern and disappointment expressed by previous speakers. There was overwhelming evidence that Nigeria's measures were not in conformity with the BOP provisions of the WTO. This had been confirmed by the Committee. While Nigeria had recently removed some products from its list of import restrictions, there was no WTO justification for BOP restrictions on the remaining four items. Australia was disappointed that despite the Committee's efforts over the past two years, Nigeria had been unable to propose an acceptable phase-out plan for the elimination of these restrictions. A five-year phase out was unacceptable. Australia called on Nigeria to recognize that, without any BOP justification, these restrictions should be removed promptly. Australia would welcome information from Nigeria on its intention regarding the removal of these restrictions and on its plans to conform with its WTO obligations.

The representative of New Zealand supported previous speakers' statements. It was important for the WTO system that these measures be eliminated as soon as possible, and the way forward suggested by the United States was sensible. As regards the BOP consultations in general, New Zealand wished to underline that these consultations should take place without unnecessary delays.

The representative of Switzerland expressed serious concern regarding Nigeria's import measures and regretted that it had not been possible for the Committee to reach agreement. As his delegation had stated on several occasions, the measures applied by Nigeria were not covered by the BOP provisions of the WTO and were therefore not in conformity with WTO obligations. It was therefore urgent that Nigeria dismantle these measures.

The representative of Norway said that if Nigeria was not able to eliminate these measures immediately, an agreement with Members on a precise timetable for their elimination in the form of a waiver should be sought. This procedure would be good for Nigeria and for the WTO.

The representative of Nigeria said that his delegation had conveyed the Committee's conclusions to his Government for information and appropriate follow-up action. He assured the General Council that Nigeria would do everything possible to ensure a speedy resolution to the problem and would continue consultations with its trading partners on the best ways to resolve the problem as quickly as possible.

The General Council took note of the statements and adopted the report on the consultation with Nigeria (WT/BOP/R/41).

5. Waivers under Article IX of the WTO Agreement

- (a) Harmonized System - Requests for extensions of waivers
 - (i) Bangladesh (G/L/227, G/C/W/107/Rev.1)
 - (ii) Nicaragua (G/L/230, G/C/W/110 and Corr.1)
 - (iii) Sri Lanka (G/L/229/Rev.1, G/C/W/109)

The Chairman drew attention to the requests by Bangladesh (G/L/227), Nicaragua (G/L/230) and Sri Lanka (G/L/229/Rev.1) for extensions of waivers previously granted in connection with their implementation of the Harmonized System, and to the related draft decisions (Bangladesh G/C/W/107/Rev.1, Nicaragua G/C/W/110 and Corr.1 and Sri Lanka G/C/W/109).

Mr. Saborío Soto (Costa Rica), Chairman of the Council for Trade in Goods, reporting on the Council's consideration of these requests, said that the Council had agreed to forward the draft decisions to the General Council for adoption.

The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the draft decisions (Bangladesh - WT/L/264; Nicaragua - WT/L/265 and Sri Lanka - WT/L/266).

- (b) Zambia - Renegotiation of Schedule LXXVIII
- Request for extension of waiver (G/L/228, G/C/W/108)

The Chairman drew attention to the request from Zambia (G/L/228) for an extension of the waiver previously granted in connection with its renegotiation of its schedule, and to the related draft decision (G/C/W/108).

Mr. Saborío Soto (Costa Rica), Chairman of the Council for Trade in Goods, reporting on the Council's consideration of this request, said that the Council had agreed to forward the draft decision in G/C/W/108 to the General Council for adoption.

The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the draft decision (WT/L/267).

- (c) Decision on the introduction of Harmonized System changes into WTO schedules of tariff concessions on 1 January 1996
- Extension of the time-limit (G/C/W/111)

The Chairman drew attention to the draft decision regarding the introduction of Harmonized System changes into WTO schedules of tariff concessions on 1 January 1996 in G/C/W/111.

Mr. Saborío Soto (Costa Rica), Chairman of the Council for Trade in Goods, reporting on the Council's consideration of this matter, said that the Council had agreed to forward the draft decision in G/C/W/111 to the General Council for adoption. The draft decision listed in its annex thirty-six Members which had requested the waiver extension as well as an additional four Members which had requested to be covered by it.

The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the draft decision (WT/L/268).

6. WTO Secretariat and Senior Management Structure (WT/L/207)
- Statement by the Chairman

The Chairman recalled that in April 1997, the General Council had decided as follows on the question of the WTO Secretariat and senior management structure: (i) to request the Director-General to submit a report with his recommendations not later than October 1997 on how the functioning and operational efficiency of the Secretariat might be enhanced to meet challenges facing the organization, including through a rationalization of the senior management structure in the light of Members' intention to reduce significantly the number of Deputy Directors-General; and (ii) that consideration of the matters referred to in the previous paragraph would be initiated before the end of 1997, so that decisions might be taken before the appointment of the next Director-General and reflected in the 1999 Budget of the WTO.

As Members were aware, the Director-General's report had been circulated to delegations in October 1997 (WT/GC/W/74), and had been discussed briefly at informal consultations on 2 December. Since then, he had held further consultations on this matter on 19 and 30 March, and had raised it with delegations at an informal meeting on 22 April. Although delegations had expressed various preferences on the number of the Deputy Directors-General, all had indicated their readiness to show a certain flexibility. It had also appeared, on the basis of the views expressed, that a balanced solution for the Senior Management Structure could be the 1+ 2 option, i.e., one Director-General and two Deputy Directors-General. It had therefore been his intention to propose that the General Council agree at its present meeting that the number of posts of Deputy Directors-General in the future senior management structure of the Secretariat be reduced to two, and that other aspects of the report remain open for further consideration. However, one delegation was firmly of the view that agreement on this aspect of the question should be reached only in conjunction with an understanding to undertake a further study on how the Secretariat should respond to the challenges outlined in the Director-General's report. He therefore proposed to postpone a decision on his proposal to allow for further consultations. Given the importance of taking an early decision on the number of Deputy-Directors General, he intended to hold consultations as soon as possible and to return to this matter when the General Council meeting of 2 and 14 April would be reconvened in May.

The General Council took note of the statement.

7. Tariff standstill for electronic commerce
- Proposal by Canada (WT/GC/W/82)

The Chairman indicated that this item was on the Agenda at the request of Canada.

The representative of Canada said that a recent study by the Secretariat and the US proposal to create a tariff-free zone for electronic commerce (WT/GC/W/78) had raised several trade-policy issues. Examples of these included: definitional issues such as the classification of electronic deliverables as either goods or services or the service mode of the deliverable that was applicable to electronic commerce; and the application of existing trade agreements to electronic commerce. These were not trivial issues, and could not be left to dispute settlement. Policy decisions by WTO Members were required. In the meantime, as electronic commerce continued to expand rapidly, Members could send an important message to businesses and consumers around the world, if they made a political commitment to a temporary standstill on any new measures that would have the effect of applying customs duties on electronic deliverables. The standstill would be temporary and without prejudice to future decisions taken in the context of negotiations, including on classification as goods or services. It would apply only to new measures and to customs duties, and not to taxes in general. Also, the standstill would apply only to deliverables transmitted electronically, and not to deliverables ordered electronically but delivered non-electronically. Furthermore, the standstill would not apply to deliverables transmitted electronically that were intrinsic to and required for the functioning of a good delivered non-electronically. It was quite possible that WTO Members would conclude that electronic commerce was largely captured by existing agreements and that little additional work was required in terms of negotiating new agreements. For example, on the application of existing trade agreements to electronic commerce, it might be argued that the GATS Annex on Telecommunications was the most important WTO document on electronic commerce at present. It provided that each Member should allow "access to and use of public telecommunications transport networks and services" for the "supply of a service included in its Schedule". It ensured that service providers that wished to provide retailing, distribution, banking, or any other service for which a Member had made commitments, also had access to the telecommunications infrastructure to deliver those services.

If Members concluded that electronic transmissions should be treated as services, then the Annex's straightforward language would seem to guarantee that electronic commerce be allowed to

proceed in all Member territories, subject to the disciplines of the GATS applying to the services for which Members had made commitments. The example of the GATS Annex on Telecommunications demonstrated that electronic commerce was not entirely absent from existing trade disciplines; what was needed now was a multilateral "understanding" on how these current trade disciplines applied to electronic commerce and what additional coverage might be desirable. The appropriate process to discuss these issues in the WTO would need to be determined. Canada's tariff standstill proposal would demonstrate the commitment of Members to encouraging global electronic commerce, while at the same time recognizing that the tariff issue must be considered as part of the broader international trade policy agenda. There was a lot that was not known about electronic commerce by officials responsible for trade policy. Moreover, governments generally, industry leaders involved in all aspects of information technology, as well as consumers and users, could only guess at the potential of this new medium. However, Canada was convinced that this market-driven, user-powered phenomenon needed to be encouraged and nurtured because of what it could offer to all citizens and nations. A political commitment to create no new tariff barriers and to engage immediately in a trade work programme would contribute to the responsible development of this global resource.

The representative of the United States informed delegations about the activities of the United States delegation with regard to electronic commerce since the US proposal was made at the 19 February meeting of the General Council. Numerous informal bilateral and plurilateral discussions had been held. In addition, US experts had visited a number of WTO countries to explain the proposal to officials in capitals. On the whole, she was encouraged by the outcome of the bilateral and plurilateral consultations, as they had revealed that many delegations were tremendously interested in electronic commerce. This interest was not surprising, given the positive impact that electronic commerce could have on economic growth. Electronic commerce could help developed and developing countries grow. In her consultations with developing countries, she had been told of how electronic commerce would benefit development. She had also listened to the interest in receiving infrastructure and technical assistance. Responding to this interest would require examining what exactly could be done within the WTO's competence, compared to the services of other organizations. WTO Members had achieved the Information Technology Agreement (ITA) and the Agreement on basic telecommunications and she hoped that more developing countries would involve themselves in those WTO initiatives as such involvement could attract needed investment. In parallel to initiatives by the United States, her delegation was willing to look at other contributions which the WTO could make in the area of development, so that developing countries would benefit from the growth of electronic commerce. Her delegation reiterated the belief that all countries would benefit from the growth of electronic commerce. While developing countries could not be left out, the WTO could not be slowed down in sending a message on electronic transmissions. These efforts could be acted on together.

The US proposal had been intended to send a strong signal to the private sector, businesses, and citizens that the WTO was prepared to contribute positively to efforts that would allow electronic commerce to grow and develop. In making the proposal, her delegation had noted that the United States was interested in the views of others and was willing to work cooperatively with them in fashioning an approach that was acceptable to the largest number of countries. Her delegation had carried this spirit of openness into the discussions it had had with other delegations, and had taken into account various interests expressed. She noted that Canada's proposal, while welcome, would put a time limit on maintaining the status quo regarding the customs duty treatment of electronic transmissions. However, WTO Members could be more ambitious than to send a message that only lasted 20 months. Members should send a message from the WTO that would be meaningful over the longer term. The United States supported those that had called for a future work programme to look at the impact that electronic commerce might have on the WTO and its various bodies. It was interesting to see that the paper circulated by the European Communities and their member States called for a future work plan. She questioned, however, if it too was ambitious enough in the area of sending a meaningful message.

In order to take into account the proposal by the European Communities, she suggested that the General Council, perhaps as part of its preparations for the 1999 Ministerial Conference, consider seeking the views of the relevant WTO councils and committees on disciplines and on the role of electronic commerce in strengthening the multilateral system. The Council could be guided in this work by the paper produced by the Secretariat. She emphasized that what could not be put off to the future was an understanding that Members would continue their current practices of not imposing customs duties on electronic transmissions. This ought to be agreed to in the next four weeks. She reiterated that at present no WTO Member considered electronic transmissions as importations for customs duty purposes, that such transmissions were not given a classification in the Harmonized Tariff Schedule, and that not a single Member imposed customs duties on electronic transmissions. There were no customs duties on telephone calls across borders, nor on fax messages. There were, furthermore, no customs duties when computers accessed data bases. Telephone calls, faxes and computers shared a common element; they all relied on electronic transmissions that might travel beyond borders. She therefore requested all delegations to support a commitment now that would continue current practices and that would include a future WTO work plan on electronic commerce.

The representative of Japan said that global electronic commerce, via the Internet and other means, would be one of the major promoters of world economic growth in the years to come. Japan believed that the private sector should play a leading role in promoting electronic commerce and that governments should refrain from imposing undue restrictions on it. As regards customs duties, he said that there were no customs duties on electronic commerce at the present time. In view of the importance of electronic commerce, there was a need to closely examine the relationship between the WTO Agreements and electronic commerce. It would be desirable for Members to start a comprehensive examination in WTO of the trade-related aspects of electronic commerce, bearing in mind that electronic commerce related to various aspects of the WTO Agreements, and to aim to reach a conclusion soon on any necessary steps to be taken. In the meantime, and without prejudice to future decisions regarding customs duties, Members should agree, as proposed by Canada, to apply no new measures that would result in application of customs duties on electronic commerce, and to review this standstill after 1 January 2000.

The representative of the European Communities said that his delegation would consider carefully the proposals by Canada and the United States, and noted that a communication from the European Communities and their member States on electronic commerce had recently been circulated (WT/GC/W/85). In response to the statement by the United States that the proposal by the Communities was not ambitious enough, he indicated that it went further in suggesting that all WTO related aspects of electronic commerce be tackled, including the status of customs duties and its development aspect. Electronic commerce could only develop in a predictable global framework agreed to on a multilateral level. The WTO had a crucial role to play in this regard. The initiatives presented by the US, Egypt, Australia and Canada were useful. The ideas of the European Communities for a comprehensive WTO initiative on all trade issues affecting electronic commerce included discussions on the following subjects: (i) the status of electronic commerce in the WTO in order to identify what WTO provisions applied or did not apply to it, as well as considering the legal treatment of electronic transactions according to WTO principles, in particular the GATS; (ii) a possible agreement that no duties be imposed on the import of on-line services (which would not include indirect taxes nor tariffs on goods ordered electronically and delivered physically); (iii) effective protection of the privacy of individuals in order to ease electronic trade, since the absence of data protection rules might become an impediment to the development of electronic commerce; (iv) competition aspects of electronic commerce, in order to address issues such as the misuse or abuse of information or unjustifiable restrictions for the access and use of information such as the Internet; and (v) electronic commerce aspects of intellectual property, government procurement, trade facilitation and the Agreement on Information Technology. He indicated that the WTO's consideration of on-line trade should also recognize the imperative need to increase the participation of developing country Members in electronic commerce. He proposed that the General Council launch a debate in WTO bodies on a comprehensive consideration by Members of electronic

commerce on all these issues. This should lead to clarifying the application of WTO rules to electronic commerce and revising them where necessary by a target date of no later than December 1998. This was an ambitious target, but it only reflected the clarity and predictability that was urgently needed for the benefit of both electronic commerce providers and users.

The representative of Norway reiterated his delegation's interest in electronic commerce. Noting that at least four different documents were being considered, from the US, Canada, Australia and the European Communities, he said that a more coordinated way to handle the issue was required, on both procedure and substance. While his delegation wished to play a more active role on this issue, it was unclear where it was going to be addressed.

The representative of Switzerland said that his delegation was in favour of retaining the system that currently governed the exchange of electronic data and goods that were traded on the basis of electronic commerce. He indicated that electronic commerce had developed tremendously in recent years, because Members had not obstructed it. As noted by the United States, electronic commerce tended to place all partners, whatever their size and level of development, on an equal footing. This idea had prompted the Swiss government to support the idea of an Internet duty-free pact. His delegation was in favour of such a pact because, first of all, electronic commerce was and would be a crucial instrument for the development of any economy whether developed or developing. It was essential that through electronic commerce, two track systems not be established which would curb the development of some economies and lead to the fragmentation of the trading system. Second, he indicated that the process initiated in the WTO must be simple, user-friendly and productive. It should identify the specific parameters, and the various proposals that had been tabled were an excellent starting point for discussions. This work should avoid creating new barriers to trade. He expressed his delegation's interest in the work that would be undertaken in the General Council on this issue and its conviction that it would be useful.

The representative of New Zealand supported the idea of having the current absence of customs duties on electronic transmission affirmed by the WTO. Such a move would demonstrate in a forward-looking manner the commitment of Members to consider the trade implications of electronic commerce -- a role which the WTO was uniquely placed to assume. Discussion in a number of bodies had already indicated that there were worthwhile contributions to be made by the WTO on various key issues. New Zealand's broad policy aim was that of achieving a stable environment which would allow electronic commerce to flourish. New Zealand believed that such an environment required little government intervention, but rather ongoing cooperation with private sector interests. The various approaches already advanced deserved further serious consideration by Members, and New Zealand looked forward to participating actively in future discussions.

The representative of Argentina referred to Canada's proposal for creating a tariff-free zone for electronic commerce, and to the Swiss proposal for a duty-free pact, and indicated that neither of these proposals, nor indeed others were covered by Article V of the GATS nor by Article XXIV of GATT 1994. As electronic commerce was not part of WTO Agreements, he did not understand the context in which reference was being made to a decision on electronic commerce and to disputes in its regard. The paper by the Secretariat, as well as the papers presented by Canada and others, stated that electronic commerce was neither a good nor a service, and as the WTO only had disciplines on goods and services, he did not know how this dilemma could be resolved. If a political compromise were to be reached on a standstill and it was breached by someone, all that could be said was that that Member had deviated from the status quo. This was a serious issue for his delegation. He indicated his delegation's support for any initiative to liberalize trade and said that he found it strange that nobody mentioned that the Internet doubled its list of clients every hundred days. He wished this figure to increase even faster, but indicated that he was interested in retaining stability and confidence in WTO. His delegation needed time to study the impact of electronic commerce on trade flows and how WTO

disciplines could be adjusted with respect to it. His delegation would work on, as well as follow closely, this issue.

The representative of the Czech Republic welcomed the initiative launched by the United States, Canada, the European Communities and others that the WTO consider not introducing customs duties on electronic commerce. His delegation sympathized with this proposal, especially since the Czech Republic did not apply customs duties to electronic transmissions. It was evident, however, that electronic commerce was an issue which involved a wide spectrum of policy aspects which required further consideration before any action of a legally binding character could be taken. His delegation therefore preferred to embark on an in-depth discussion that would allow all Members to understand equally what was at stake and to proceed on this basis to establish a proper framework for the further development of electronic commerce.

The representative of Pakistan recognized that economic efficiency gains could flow from electronic commerce, but that it was at the same time a highly complex subject which had inter-sectoral linkages and could have an impact a broad range of issues, such as intellectual property, investment, taxation, competition policy, and legal regimes. These aspects would, therefore, need to be carefully studied prior to meaningful discussion. In his delegation's view, UNCTAD was the forum to undertake such an analysis, so as to provide a basis for future work in WTO. As for the proposal relating to a tariff standstill, the matter was not as simple as it appeared. For developing countries, zero tariffs could have far reaching implications, and a partial approach of this nature would only complicate the issue. Notwithstanding these preliminary comments, he indicated that Pakistan would closely examine the proposals made and respond to them in greater detail at the next meeting.

The representative of Brunei Darussalam, speaking on behalf of the ASEAN Members, said that electronic commerce was a complex subject which required considerable study. At this stage, the ASEAN Members wished to reassure Canada, the European Communities, US and Australia that they would give their proposals due consideration. The proposals would be studied together, in a comprehensive manner and with an open mind. He enquired about how the issue would be addressed, especially in the short term.

The representative of Australia said that the number and range of countries that had participated in the debate on electronic commerce indicated its importance for all trading nations. Electronic commerce had enormous potential and promised real benefits for all countries, regardless of their stage of development. The important issue was how to harness these benefits, including through the creation of the right policy settings and, where necessary, targeted technical assistance. Maintenance of the current duty-free environment was vital to ensuring the future growth and accessibility of electronic commerce. His country's Prime Minister had already given a clear commitment that electronic commerce would remain duty free in Australia, a policy that was clearly in Australia's national interest. Australia was therefore in a position to give its strong support to the US proposal that WTO Members agree not to impose any duties on electronic commerce. Given the importance of duty-free electronic commerce in realizing benefits for developing and developed countries alike, he questioned the value of Canada's suggestion to set a time limit on the standstill for the application of duties on electronic commerce. A time limit seemed to convey the message that the imposition of tariffs on electronic transmissions at some stage in the future remained a viable option. This undermined the predictability crucial for business, as governments moved to develop regulatory regimes for electronic commerce. Knowing that duties would not be imposed would provide an important bedrock for business planning now. The idea of possible future duties also ran counter to the WTO's trade liberalization agenda and conflicted with one of the major outcomes from the Uruguay Round, namely, increased certainty for international trade via the binding of tariffs. For Australia, the issue was not, in any event, the viability of applying duties to electronic commerce, but the fundamental undesirability of doing so. There were real benefits for all Members in keeping electronic commerce as accessible as possible. For example, from the point of view of developing countries' aspirations for technological development, duties might may

act as a disincentive for technological upgrading and access to current technological information. Electronic commerce touched upon a wide range of WTO Agreements, and Australia strongly supported a WTO work programme, with all appropriate issues being addressed by the relevant WTO bodies. Given the close parallels between electronic commerce and existing forms of commerce, as well as and the difficulty of drawing a sharp conceptual distinction between them, there was a danger that pursuing work on electronic commerce independently of existing WTO bodies could lead to fragmentation or incoherence in relation to the GATS, TRIPS or Telecommunications. A decision needed to be taken on electronic commerce in relation to WTO obligations in due course.

The representative of Egypt reaffirmed his delegation's interest in the issue of electronic commerce, and agreed with Canada that matters should not be left to dispute settlement. He indicated that numerous questions required policy decisions. However, he did not share Canada's conclusions that electronic commerce was already covered by WTO Agreements. Egypt was still trying to understand the scope and implications of some of the issues for developing countries. Canada's paper referred, in paragraph 5, to two specific areas where the standstill would not apply. The first had to do with deliverables that were ordered electronically, but were delivered non-electronically. The second had to do with deliverables transmitted electronically that were intrinsic to and required for a good delivered non-electronically. The question then became whether there would be any other exceptions. He also indicated that the development aspect of electronic commerce was extremely important. His delegation believed that electronic commerce had flourished because governments had not obstructed it. Governments must not be given wrong signals to have them look for ways in which to gain customs revenues from electronic commerce. He referred to Argentina's statement that the question of whether such commerce was a good or a service remained unanswered. He also raised concerns with respect to the proposal by the United States about possible discrimination between "like" products and emphasized that further work on this issue was required prior to developing any legally-binding commitments in the WTO.

The representative of India said that his delegation needed some time to study the full implications of the Canadian proposal. Electronic commerce was an important and complex issue and, in its own examination of this subject, India would take into account the various views expressed by Members at the present meeting. He recalled that India had in the Committee on Trade and Development pleaded for a detailed, informed, and wide-ranging discussion of this issue, in order to develop an equal understanding of it. The development aspect of electronic commerce, as mentioned by the United States, was a very important consideration for India in its examination of this matter.

The representative of Brazil said that electronic commerce was a relatively new issue for Brazil, and that it was still considering its repercussions. He indicated that more time would be needed to consider the proposals that had been tabled.

The representative of Chile said that electronic commerce was an issue which was followed with great interest by her delegation and that it had been addressed in other fora such as the Organization for Economic Cooperation and Development (OECD) and the World Intellectual Property Organization (WIPO), among others. Electronic commerce was an issue which had many repercussions in different areas and required different actions to be taken. She indicated that this was an item which should be tackled in a global and comprehensive manner. Without being fully aware of the impact of electronic commerce, and how it related to WTO provisions, decisions could not be made.

The representative of Korea stated that his country, like others, attached great importance to the continued development of electronic commerce through the Internet. He expressed support for the creation of a duty-free and less restrictive environment for global Internet transactions, which would contribute to the development of electronic commerce and to the facilitation of international trade. Given that demand for electronic commerce was expanding at great speed, the role of the WTO in this area should be defined as soon as possible. Also, since the expansion of electronic commerce

would greatly impact social, economic and cultural life, the issue needed to be addressed carefully. His delegation therefore supported suggestions for a comprehensive debate on this matter in the WTO. However, considering that there were technological and practical difficulties in levying duties on transborder Internet transactions, and that no country was expected to create such a system in the near future, Korea was doubtful that adopting an agreement on or undertaking a political commitment to a standstill was specifically needed at this stage. Korea would carefully study the procedural and substantive matters in the various proposals submitted by the United States, Canada, the European Communities, and Australia, and would actively participate in future discussion on this subject.

The representative of Hong Kong, China said that the Secretariat paper contained much thought-provoking information and that the proposals put forward suggested some ways to tackle various aspects. Electronic commerce might have very important implications for the rules under which trade was conducted, and was a multifaceted issue. A comprehensive analysis needed to be embarked upon quickly, but one that allowed for full debate in appropriate fora. In the meantime, his delegation could see advantage in, and could support in principle, a standstill on tariffs with respect to electronic commerce. This would be a clear signal that WTO Members were determined not to erect new barriers to trade. In considering a standstill, thought would need to be given to possible modalities and timing in order to find the best formulation for giving effect to this. His delegation looked forward to participating in future consultations on this subject.

The representative of Hungary expressed sympathy for the initiative by the United States, and welcomed other initiatives. There were two common elements to all the proposals: (i) the idea of a certain kind of standstill, and (ii) a suggestion for comprehensive analytical work in the WTO on the implications of electronic trade. While Hungary supported these two elements, the different proposals contained different ideas on timing, procedures, fora, etc. He therefore proposed that all interested Members discuss together these ideas in greater detail in order to devise a common approach and arrive at a solution.

The representative of Iceland agreed with the general thrust of statements made. Iceland fully recognized the importance of electronic commerce, and that it was in its own interest -- and that of its business community -- to maintain an open, liberal and predictable environment within which electronic commerce could thrive. However, this was a highly complex issue which needed thorough analysis. The significance and potential of electronic commerce was such that the WTO could not but initiate at the earliest possible date a comprehensive debate on how it should be treated within the multilateral trading system, taking into account and building on work carried out in other relevant fora.

The representative of Poland said that his authorities accorded great importance to the issue of electronic commerce. It was important, in discussing this issue, to take account of work in other international organizations in this field. As to the market access aspects of the issue, his authorities were engaged in the examination of the various proposals that had been put forward.

The representative of the United States said that her delegation had started work on how to capture the positive opinions on electronic commerce that had emerged from bilateral and plurilateral discussions and, as a part of this process, had produced an initial draft of how to capture these views. The intention was to send a message that after 50 years of GATT liberalization and now the WTO, the trade community was forward thinking. The trade community would acknowledge a growing area of trade and the fact that duties were not imposed now and that it would maintain that environment. Such a message would provide certainty. The draft provided for a standstill without a date limitation. Such a limitation would not be meaningful since it was difficult if at all possible to impose duties. It would also create an even more uncertain environment in that it raised the question of what kinds of regulations would be imposed, and whether or not the standstill was a deadline until a way could be found to impose duties. The draft included flexibility in the standstill with a view to including the commitment into schedules. This could happen before or after recommendations emerged from the

work programme. The draft included in the work programme the idea that the General Council coordinate and consult with other relevant WTO bodies including the Committee on Trade and Development. Her delegation believed that its original proposal had been simpler and less complex, but some delegations had wanted the work programme component included now. She hoped that after further informal consultations, her delegation would be in a position to share this draft with a large number of other delegations, and that the circulated text would reflect adequate input from others.

The representative of Canada said that the discussion indicated a clear interest to address the trade policy aspects of electronic commerce as well as its development aspects. The Canadian proposal recognized this. It proposed that Members agree to a tariff standstill as the discussion continued. Canada was not proposing that the standstill be time-bound, but rather that based on discussions in the WTO, Members might wish to review the standstill after 1 January 2000.

The General Council took note of the statements.

8. Preparations for the 1998 Ministerial Conference and the commemoration of the 50th Anniversary of the multilateral trading system
 - (a) Organizational matters
 - (b) Report by the Director-General
 - (c) Progress reports by the Chairpersons of WTO bodies
 - (d) Addendum to the report of the General Council (WT/GC/W/81)

- (a) Organizational matters

The Chairman recalled that at its meetings on 2 and 14 April, the General Council had taken certain decisions regarding the organization of the Ministerial Conference and the 50th Anniversary commemoration. An additional action that had to be taken concerned a request for observer status at the Ministerial Conference received from the South Centre, an organization not presently an observer to any WTO body. He recalled that he had raised this matter with delegations at an informal meeting on 22 April, and asked if the request could be granted.

The General agreed to grant the request by the South Centre.

The Chairman then recalled, with regard to the organization of the 50th Anniversary commemoration, that two Members had confirmed and announced officially that they would be represented at the Head of State or Government level for the 50th Anniversary event on 19 May, namely, Switzerland (President) and Singapore (Prime Minister). A number of delegations had informed the General Council of positive reactions from their respective Heads of State or Government concerning attendance at the 50th Anniversary event. In addition to Singapore's and Switzerland's confirmed participation, up to twelve other Members were actively considering attending, some of which were in a more advanced stage. He therefore invited Members who intended to be represented by their Heads of State or Government to communicate details of their participation to the Secretariat as soon as possible, and in any case no later than 1 May 1998.

The representative of Norway informed the General Council that his country's Prime Minister would attend the 50th Anniversary event.

The General Council took note of the statements.

(b) Report by the Director-General

The Director-General said that, as requested by the General Council, he had recently submitted to Members a first draft of a Ministerial text (Job 2174 of 20 April) that would be adopted by Ministers at the Conference in May. In preparing this text, the guidelines that had been agreed by Members had been closely followed, namely, that the text should be short, not contain contentious language, be balanced between implementation and future activities, have minimum specificity with regard to the mention of sectors and not prejudice the outcome of the process or Members' views. Members also directed that the text should contain a political message and an operative part. The draft text had been drawn up bearing in mind these guidelines and taking into account Members' views, and he hoped it could serve as a basis for discussions in the coming weeks. It was clear that strong views of delegations on either side of the spectrum could not be taken on board lest the overall balance be affected. However, delegations would have an opportunity to submit additional points to be considered and retained if consensus existed. Separately, he wished to inform Members that the paper on the status of implementation of WTO Agreements and Ministerial Decisions, which he had promised at the 2 April meeting, was at an advanced stage of preparation and would be made available shortly.

The General Council took note of the Director-General's report.

(c) Progress reports by the Chairpersons of WTO bodies

The Chairman recalled that in December 1997, the General Council had agreed that Chairpersons of subsidiary bodies would be invited to report orally to the General Council at its final meeting before the Ministerial Conference on work done in their respective areas since December 1997. The General Council had also noted that the information provided by the Chairpersons in their oral reports would be reflected in the update of the General Council's report to be prepared by the Secretariat following the meeting. Accordingly, he would invite the respective Chairpersons of the subsidiary bodies of the General Council, as well as the Chairpersons of the DSB and the TPRB, to report briefly on the progress of work in those bodies. It was his understanding that the Chairman of the Budget Committee had nothing further to report at this stage in addition to his presentation of the Committee's report considered under Item 3 of the present meeting, and he would not, accordingly, call on the latter to report under this item.

Mr. Morjane (Tunisia), Chairman of the Dispute Settlement Body, said that since the adoption of its 1997 annual report, the DSB had held six meetings in the course of which work had covered the following areas: (i) Establishment of panels: Five new panels had been established and one request for the establishment of a panel had been withdrawn; (ii) Adoption of Appellate Body reports and panel reports: In three dispute settlement cases, the panel reports and the Appellate Body reports which had modified the panels' findings had been adopted by the DSB. In two of these cases, in accordance with Article 21 of the DSU, the parties to the disputes had already indicated their intentions to implement the recommendations adopted by the DSB. In addition, in a fourth case a panel report had been adopted without recourse to the appeal procedure; (iii) Mutually agreed solutions: At the request of delegations the Secretariat had provided information on the status of notifications of mutually agreed solutions. An informal note to this effect had been circulated listing 21 cases in which a mutually agreed solution had been notified and 36 cases over six months' old where no solution had been notified. He would therefore encourage delegations to notify the DSB of such information for transparency purposes. Since December 1997, six notifications regarding mutually agreed solutions had been received by the DSB; (iv) Indicative list of governmental and non-governmental panelists: In December 1997 on the basis of updated curricula vitae of persons submitted by delegations a new updated indicative list of governmental and non-governmental panelists had been circulated (WT/DSB/12). New names proposed by Members were being approved by the DSB on a regular basis; and (v) Review of the DSU: As Members were aware, in accordance with the Ministerial Decision on the Application and Review of the Understanding on the Rules and Procedures Governing the Settlement of Disputes, a

full review of dispute settlement rules and procedures under the WTO was required to be completed this year. Work in this area had already been initiated and should continue after the May Ministerial Conference.

Mr. Mchumo (Tanzania), Chairman of the Trade Policy Review Body, said that since December 1997, the TPRB had conducted three review meetings, covering seven WTO Members, namely, Japan, India and the members of the Southern African Customs Union (South Africa, Botswana, Lesotho, Namibia and Swaziland). The review of India had given Members an occasion to seek clarification on India's future trade policy stance; on its commitment to pursuing its reform process initiated in 1991, which had had considerable success in promoting its economic growth; and on specific issues of concern, ranging from the phasing out of quantitative restrictions to broader, development-related issues in such areas as agriculture and services. The review of the SACU member States had been not only the first review ever of Botswana, Lesotho, Namibia and Swaziland, but also the first review of South Africa since its political transformation. It had focused on the evolution of South Africa's trade policies, which were moving in the direction of greater openness and predictability; their effects on the other SACU members via the operation of the common external tariff, and plans for its renegotiation; the relations of SACU as a group with other regional entities, including the Southern African Development Community, with Europe, and with other MFN trading partners; and specific issues of concern to WTO Members. He believed that these reviews continued to fulfil the mandate of the Trade Policy Review Body as an engine for transparency, non-confrontational discussions and analysis of major policy issues, and encouragement of Members, by others, to follow the principles and precepts of the WTO. The TPRB had an ambitious programme for the rest of 1998 and would conduct 13 more review meetings, covering 16 WTO Members, with three more "grouped" meetings. In total, 23 Members would have been reviewed in 1998 of which 17 developing and six least-developed Members. However, the number of reviews was not the main point at issue: rather, that Members under review, and the membership of the WTO as a whole, should be able to hold a free, friendly and frank discussion about their respective trade policies and the way in which the multilateral trading environment would affect, or would be affected by these policies. He expressed appreciation for the willing participation of colleagues who volunteered as discussants in the review process. The discussants' role was to focus the minds of Members on major issues in each review. He believed that the colleagues who had taken on this difficult task had acquitted themselves with distinction. He finally noted that Annex 3 of the WTO Agreement provided for an appraisal of the Mechanism by the TPRB not more than five years after the entry into force of the WTO Agreement. Therefore this appraisal should be completed during 1999, on the tenth anniversary of the introduction of the TPRM under GATT. In this regard, he hoped to begin consultations with delegations leading up to this appraisal, in the second half of this year.

Mr. Saborío Soto (Costa Rica), Chairman of the Council for Trade in Goods, said that the Goods Council had held five meetings since December 1997, and the discussions at these meetings had largely focused on the major review foreseen under Article 8 of the Agreement on Textiles and Clothing (ATC) and on trade facilitation. With respect to textiles, he recalled that in December 1997 the General Council had been informed that the Goods Council had conducted the major review of the implementation of the ATC over a series of six meetings between October and December, and that in spite of determined efforts by many delegations, it had not been possible to arrive at sufficient common ground on the summary of the discussions and on a series of conclusions to the review which would attract consensus. In January 1998, consultations had taken place with a number of delegations since it had been apparent that many Members had felt that the progress achieved had been quite substantial and the matter should not remain without a positive conclusion. As a result of the spirit of compromise and flexibility demonstrated by the Members who had participated actively in subsequent informal consultations, it had been possible to reach substantive agreement on a text containing a detailed summary of the discussions and conclusions. This text had been adopted by the Goods Council on 16 February, and had been reported to the General Council on 19 February.

On trade facilitation, he recalled that the Council had been mandated by Ministers in Singapore to "undertake exploratory and analytical work, drawing on the work of other relevant international organizations on the simplification of trade procedures in order to assess the scope for WTO rules in this area". In March 1998, a Trade Facilitation Symposium had been held on the initiative of the Council for Trade in Goods. The objective of Symposium had been to help identify the main areas where traders faced obstacles when moving goods across borders. Twenty-seven speakers from private enterprises and industry groups had given an overview of a number of key issues in this respect. Speakers from intergovernmental organizations (IMF, ITC, UNCTAD, UN/ECE, World Bank, and World Customs Organization) had reported on the experiences in their work on trade facilitation. At the conference which had lasted two days, 350 delegates from 75 Members and more than 20 observers had been present among which high-ranking capital based experts on customs and commerce affairs, as well as interested private sector representatives. The Symposium had been intended to assist WTO Members to move to the phase of analytical work on trade facilitation, in order to assess the scope for WTO rules in this area, as set out in the Singapore Declaration. The main concerns traders had voiced during the Symposium could be summarized under five headings: excessive documentation requirements; lack of automation and insignificant use of information-technology; lack of transparency and, unclear and unspecified import and export requirements; inadequate procedures, particularly a lack of audit-based controls and risk-assessment techniques; and, lack of modernization of, and cooperation among customs and other government agencies, which thwarted efforts to deal effectively with increased trade flows. In March, the Council had requested the Secretariat to prepare as soon as possible a factual report on the Symposium. A first part of the report, a checklist of issues, had been distributed, and in April the Council had agreed that the Chairman should hold informal consultations to determine the process to take the work forward.

With regard to other work it had accomplished, the Council had approved the requests for extensions of waivers until 31 October 1998 from Bangladesh, Nicaragua and Sri Lanka in the context of the transposition of their schedules into the Harmonized System, and that of Zambia in connection with the renegotiation of its schedule. It had also approved the draft decision granting an extension of waivers to thirty-six Members and waivers to an additional four until 31 October 1998, for the purpose of introducing Harmonized System 1996 changes to their schedules of concessions. It had further approved the revised questionnaire on state-trading forwarded by the Working Party on State Trading Enterprises (G/STR/3). It had adopted the terms of reference under which the Committee on Regional Trade Agreements was to examine an additional eight Free Trade Agreements, the accession of Slovenia and Romania to the Central European Free Trade Agreement, and the customs union between the European Community and the Principality of Andorra. It had taken note of the status of notifications under the relevant provisions of Annex 1A Agreements and the compliance with notification obligations by Members (G/L/223) and, of the periodic report by the Market Access Committee.

With regard to the work of the Committee on Agriculture, as part of the Committee's on-going review of progress in the implementation of commitments negotiated under the Uruguay Round reform programme, more than seventy notifications in the areas of market access, domestic support and export subsidies had been subject to multilateral review. In addition a range of distinct implementation matters had been raised under the provisions of Article 18.6 of the Agreement or under other business. At each of its meetings, the Committee had taken note of the position with regard to late notifications. In terms of its November 1995 decision in this regard (G/AG/3) the Committee was required to review annually the WTO list of Least-Developed and Net Food-Importing Developing Countries at its regular March meetings. However, since there had been on this occasion no requests for inclusion in the list, it had been decided that this review would be held over until the Committee's March 1999 meeting. In line with the recommendations adopted by the Singapore Ministerial Conference on the implementation of the Marrakesh Ministerial Least-Developed and Net Food-Importing Developing Country Decision as it related to food aid matters, the renegotiation of the Food Aid Convention was currently underway in a Working Group established by the London-based Food Aid Committee/International Grains Council. Progress in these negotiations was to be reviewed in June by the Food Aid Committee, members of

which had expressed their wish to maintain, as appropriate, a dialogue with food aid recipients, potential Food Aid Convention members and relevant international organizations. The Committee had held two informal meetings, in January and in March, to continue the work of the process of analysis and information exchange ("the AIE process") and to consider additional informal papers submitted by members on the following topics: special and differential treatment; direct payments under production-limiting programmes; domestic support policy reform; export subsidies; the special agricultural safeguard; state trading enterprises (single desk buyers and single desk sellers); and sectoral trade liberalization. Additional background papers had been provided by the Secretariat on: *ad valorem*, specific and other tariffs; on special and differential treatment provisions relating to the Agreement on Agriculture; and on studies on the implementation and impact of the Agreement on Agriculture on developing countries. Further Secretariat background papers had been commissioned on special and differential treatment and issues of interest to developing countries, on Green Box policies and on the special agricultural safeguard. Members had also been invited to submit further informal papers, including on their experience in the implementation and impact of the Agreement on Agriculture in relevant areas.

With regard to the Committee on Customs Valuation, it had held an informal meeting in March to review the responses to its "Request for Information on Technical Assistance Activities". This Request for Information had been circulated in the context of the Committee's work on technical assistance designed to facilitate and expedite implementation of the Agreement for those developing country Members which had invoked the five-year delay period. Six responses had been received and the Committee had heard from two additional delegations that their responses were forthcoming. The Secretariat had circulated an inventory of technical assistance activities to assist Members in understanding what types of activities had been conducted in each of the countries which had invoked the five-year delay period. The Secretariat had also outlined a technical assistance programme on customs valuation that it was organizing for these Members. This programme would make use of WTO expertise and private expert consultants to conduct the activities. The Committee had agreed that close coordination between this programme and its own discussions on technical assistance would be essential.

In the import licensing area, additional notifications had been received from eleven Members relating to laws, regulations and administrative procedures relevant to import licensing, pursuant to Articles 1.4(a) and/or 8.2(b) of the Agreement, as well as under Article 7.3 which required all Members to provide annually replies to the Questionnaire on Import Licensing Procedures. This brought the total number of notifications received under each of these provisions to 49 (counting the European Communities and its member States as one Member). The Committee on Import Licensing had also received, pursuant to Article 5 of the Agreement, notifications relating to the institution of new import licensing procedures or changes in existing procedures from four additional Members.

As to market access, the Committee on Market Access had met on 26 March and had taken note of the situation with respect to the status of waivers related to the introduction on 1 January 1996 of the Harmonized System (HS) changes and to the transposition of pre-Uruguay Round schedules. To date, forty Members were under waivers in connection with the introduction of HS96 changes in order to carry out possible consultations/negotiations in relation to these changes. Four other Members had requested an extension of their waivers for the transposition of their pre-Uruguay Round schedules into the Harmonized System nomenclature. The waivers were to expire on 31 October 1998. On the integrated data base (IDB), the Committee had noted that so far only some twenty Members had provided the required IDB data submissions and the need for the other Members to supply IDB submissions had been stressed. Delegations had supported the Secretariat's plans to establish a database using Internet technology. Members had taken note of a document outlining a technical assistance programme for the IDB and had exchanged initial views on practical matters concerning dissemination of the IDB. On the preparation of consolidated loose-leaf schedules on goods, delegations had supported the idea, on the basis of a paper prepared by the Secretariat, of establishing a database of Members' tariff concessions which could be eventually incorporated into the IDB. It had been agreed that the Secretariat

would carry out a pilot project for the schedules of two Members in order to obtain an estimate of the resources needed and other problems that might be encountered.

In the area of rules of origin, the Committee on Rules of Origin had continued to focus on the work programme for the harmonization of non-preferential rules of origin. The deadline for completion of the work programme was 20 July 1998. As this deadline approached, the Committee was pursuing, in a tight schedule, its examination of product-specific rules. To date, Members had reached consensus on about 2,000 product-specific rules at the HS subheading level. Since the total number of HS subheadings was 5,113, a simple calculation could indicate that the Committee had done two-fifths of the total work. This would, however, disregard the fact that some of the most contentious and sensitive items were only now entering the negotiating stage. The Committee was continuing its work in almost continuous session, together with the Technical Committee on Rules of Origin, with the aim of completing the work programme by the deadline. To date 58 Members had made notifications of non-preferential rules of origin and 60 Member had notified preferential rules of origin.

As regards the Agreement on Information Technology, the Committee of Participants on Expansion of Trade in Information Technology Products had focused on the review of product coverage, discussions on non-tariff barriers, and divergences in classifying information technology products. With respect to the review of product coverage, participants had held a number of meetings and consultations to discuss the products that had been proposed under the review in order to take a decision whether to revise the product coverage by the 30 June 1998 deadline. Discussions on non-tariff barriers had led to the issuance of a survey on standards-related matters for information technology products. In addition, the Committee had reviewed the status of implementation and had noted the interest of governments that had sought to become new participants.

With regard to sanitary and phytosanitary measures, the SPS Committee had discussed in March a number of specific trade concerns including trade restrictions related to bovine spongiform encephalopathy (BSE), and a proposed EC regulation on levels of aflatoxin in certain foods. The SPS Committee had begun to monitor the use of international standards on the basis of relevant standards identified by Members. Further consideration had been given to the technical assistance needs of Members. The SPS Committee had agreed on a response to the FAO/WHO Codex Alimentarius Commission regarding the status of various Codex texts. The World Health Organization (WHO) had provided information to the SPS Committee regarding its recommendations on trade from countries experiencing outbreaks of cholera, and on the proposed revision of the International Health Regulations. It had been agreed that informal consultations on the latter matter would be held with the WHO prior to the next meeting of the SPS Committee. At an informal meeting, the SPS Committee had further considered the development of guidelines to further practical implementation of Article 5.5. In accordance with agreed procedures, at another informal meeting prior to its regular meeting, the SPS Committee had begun its review of the SPS Agreement as mandated in Article 12.7. On the basis of issues identified by Members, the Committee had considered matters related to the transparency and notification provisions of the Agreement, and had agreed to continue with these issues and with matters related to the implementation of special and differential treatment, and technical assistance at its next informal meeting.

Regarding the Agreement on Technical Barriers to Trade, the TBT Committee had heard in March statements on the implementation and administration of the Agreement and on technical assistance. It had carried out its Third Annual Review of the Implementation and Operation of the Agreement under Article 15.3 and its Third Annual Review of the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the Agreement. It had started its work programme arising from the First Triennial Review of the Operation and Implementation of the Agreement under Article 15.4.

In the trade-related investment measures area, the Committee on TRIMs had discussed in March notifications submitted under Article 5.1 of the TRIMs Agreement. Responses had been provided to questions previously put and further questions had been asked, including in regard to the implementation of Article 5.2 of the TRIMs Agreement. Statements had also been made on certain measures recently adopted or proposed to be adopted by some Members. The Committee had taken note of the current situation regarding notifications under Article 6.2 of the TRIMs Agreement.

In the textiles area, the Textiles Monitoring Body had held four meetings since the General Council meeting in December 1997, and had reviewed several notifications received from Members, in particular the notifications of their integration programmes. The TMB had also continued to review the communications received from Members concerning the verification of whether the statistical information provided regarding integration referred, where appropriate, to those portions of the HS lines covered by the ATC and not to the entire respective HS 6-digit lines. Furthermore, the TMB had also reviewed the issues brought to it by a Member regarding the maintenance of a restraint measure which had previously been agreed with another Member.

With regard to the Working Party on State Trading Enterprises, a revised questionnaire on state trading had been adopted on 2 April (G/STR/3), thus fulfilling one of the three mandates charged by Ministers at Marrakesh, namely, to review the adequacy of the questionnaire on state trading and the coverage of enterprises notified. The revised questionnaire had been approved by the Council for Trade in Goods and would be the basis for state trading notifications starting with the new and full notifications to be made in 1998. While approving the questionnaire, at the same meeting, the Working Party had agreed to continue its work, consistent with its mandate, on possible further information needed to enhance transparency, and to reconvene as early as possible to this end. It had also agreed that the deadline for submission of the 1998 new and full notifications be moved to 30 September from 30 June 1998, in order to take account of the postponement in circulating the request for notifications necessitated by the date of adoption of the revised questionnaire. Regarding its mandate to develop an illustrative list of relationships between state trading enterprises and governments, and the activities conducted by these enterprises, the Working Party had conducted a number of informal meetings in which work had advanced considerably on the text of such a list. A first revision of a Chairman's text was currently under discussion, and a final text was foreseen within the coming months. With regard to the Working Party's ongoing task of reviewing the notifications made under Article XVII and the Understanding on the Interpretation of Article XVII of GATT 1994, three new and full notifications and eight updating notifications had been reviewed at the 2 April meeting.

In the area of preshipment inspection, the 1997 report of the Working Party on Preshipment Inspection to the General Council had identified in paragraph 8 a range of issues on which the Working Party was to exchange views over the course of 1998. At the meeting of the Working Party on 19 March 1988, the Chairman had invited Members to submit written communications on the issues identified in that paragraph. He had also expressed the view that this list of issues had not been absolute and had invited delegations to refer to other issues as they saw fit. The delegation of Switzerland had presented a proposal of a model agreement between user Members and preshipment inspection companies. This had been welcomed by the Working Party as a first step in what Members would like to see as concrete and practical work during 1998. During an informal meeting on 20 April 1998, the delegation of the United States had circulated a paper addressing the various issues as a basis for further discussions. The situation with respect to the Independent Review Entity established under the Agreement on Preshipment Inspection remained unchanged since December 1997; it had received no requests for an independent review.

With regard to the Safeguards Committee and the Committee on Subsidies and Countervailing Measures, neither Committee had taken any action since December 1997. As to the Committee on Anti-Dumping Practices and its subsidiary bodies, they had not met since their October meetings and had not taken any action since then.

Mr. Akao (Japan), Chairman of the Council for Trade in Services, said that since its last report to the General Council in November 1997, the Council had continued to pursue the implementation of the work programme approved by the Singapore Ministerial Conference. Insofar as the Council itself was concerned, the work programme contained three elements: (i) An information exchange exercise on services regulations; (ii) The development of disciplines under Article VI:4 of the GATS to ensure that domestic measures do not constitute unnecessary barriers to trade; and (iii) The consideration of guidelines and procedures for the future negotiations mandated under Article XIX of the GATS. The Council, since its last report, had focused its discussions on the first item thereof, namely, information exchange exercise on services regulations. A considerable amount of useful work had been done on the basis of submissions by delegations and papers by the Secretariat. An informal consultation process on the modalities for that exercise had begun. The aim of the exercise was to facilitate access of all Members, and in particular developing country Members, to information regarding laws, regulations, administrative guidelines and policies affecting trade in services in order to contribute to the assessment of trade in services which would assist future negotiations in services. At the same time, all delegations were mindful that the structure of this exercise should be simple and avoid any necessary burden to Members in general and developing country Members in particular.

With regard to financial services, the Council had held on 12 December 1997 a special meeting to conclude the negotiations on financial services, in which it had adopted a procedural decision which would enter into force only if for some unforeseen reason the Protocol did not enter into force. In February 1998, the Council had concluded the technical verification of the schedules of commitments and MFN exemption lists resulting from the negotiations. The Fifth Protocol had been opened for acceptance by the Members concerned on 27 February 1998, and would remain so until 29 January 1999. With the entry into force of the Protocol, the number of Members with commitments in financial services would increase to 102. Together with the withdrawals or reductions in the scope of MFN exemptions, these results constituted a major achievement of WTO Members.

In the area of basic telecommunications, the Fourth Protocol relating to basic telecommunications had been open for acceptance by the Members concerned until 30 November 1997. By that date, out of 70 Members concerned, only 50 Members had accepted the Protocol. According to the terms of the Protocol, upon the lapse of the deadline for acceptance, only those who had accepted had the right to decide on the entry into force of the Protocol. On 19 December 1997, the Council had adopted a Decision extending the deadline for acceptance of the Fourth Protocol relating to basic telecommunications until 31 July 1998. Subsequently, those Members who had accepted the Protocol had decided that it would enter into force on 5 February 1998. The Council had taken note of that decision at a meeting on 26 January 1998. The Protocol was now in force.

As regards professional services, the Working Party on professional services continued to work towards the finalization of the draft of new disciplines on domestic regulatory measures in the accountancy sector. The disciplines aimed to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures did not constitute unnecessary barriers to trade in accountancy services. Substantial progress had been made on the text since last December. The Working Party was also discussing the legal form that such disciplines might take and the procedures through which they would enter into force.

On GATS rules, the Working Party on GATS rules had continued its work on the three negotiating mandates, namely, emergency safeguard measures under Article X; government procurement under Article XIII; and, subsidies under Article XV. It would be recalled that the Council for Trade in Services had adopted a Decision on 26 November 1997 to extend the negotiations on the question of emergency safeguard measures until 30 June 1999.

In the area of Specific Commitments, consultations were continuing with a view to finalizing the procedures for the modification of schedules pursuant to Article XXI of the GATS. The Committee

had also focused its discussions on classification issues relating to the examination of the structure of the ongoing revision of the central product classification system established by the UN Statistical Commission; institution of a system of electronically consolidated and updated schedules of commitments; and, possible revision of the scheduling guidelines.

Mr. Major (Hungary), Chairman of the Council for Trade-Related Aspects of Intellectual Property Rights, said that at its February meeting, the Council had taken note of several new notifications of legislation under Article 63.2 of the Agreement, including notifications of amendments to legislation that had been notified earlier. The Council had also taken up the review of one Member's legislation in the area of enforcement outstanding from its November 1997 meeting, when national laws and regulations of 32 Members in the area of enforcement had been reviewed. At its next meeting, the Council would continue this review, would also review the legislation of five Members in the area of copyright and related rights and the legislation of two Members in the areas of trademarks, geographical indications and industrial designs and, would revert to a number of follow-up questions posed in the context of the review of national implementing legislation in 1996/1997, answers to which were still pending. The Chair had informed the Council of the state of the consultations, held pursuant to the mandate given to the Chair at the November 1996 meeting of the Council, on possible advance reviews on a voluntary basis and without prejudice to transition entitlements under Article 65 of the Agreement, indicating that consensus had not yet been reached among Members on the ground rules for such reviews. The Council had continued its consideration of the implementation of Articles 70.8 and 70.9 of the Agreement and had noted that it was open to delegations to put questions on this matter on the floor of the Council or bilaterally.

The Council had taken note of recent developments regarding dispute settlement in the TRIPS area and of statements by delegations in this connection. Updated information had been provided to the Council on technical cooperation activities. The Chair had reported on further consultations held on the issue of the review of the application of the provisions of the Section on geographical indications under Article 24.2 of the Agreement. Delegations had supported the approach of developing a checklist of questions about national regimes for the protection and enforcement of geographical indications, to which Members would be asked to reply. A draft of such a checklist would be prepared on the basis of questions suggested by delegations, which would be the subject of informal consultations by the Chair prior to the Council's meeting in May 1998. The Chair had reported that further informal consultations would be held as to what the next step should be for carrying forward work concerning negotiations for the establishment of an international system for the notification and registration of geographical indications under Article 23.4 as agreed in paragraph 34 of the report of the Council for TRIPS to the Singapore Ministerial Conference, now that background information as requested by the Council in February 1997 had been made available to the Council. Finally, the Council had noted that a new request for observer status had been received from the African Regional Industrial Property Organization (ARIPO). It had agreed to revert to the now eight pending requests for observer status from international intergovernmental organizations at its next meeting.

Mr. See (Singapore), Chairman of the Committee on Trade and Environment, said that as agreed in the report of the CTE to the General Council in December 1997, the Committee had continued to broaden and deepen the analysis of all items of the work programme set out in the Marrakesh Ministerial Decision on Trade and Environment. In order to advance the discussions in 1998, the CTE had agreed to base its analysis on the "cluster approach" under the themes of market access and the linkages between the multilateral environment agenda and the multilateral trade agenda. As set out in the work programme and schedule of meetings for the CTE in 1998, which had been adopted at its March meeting, the CTE would hold three meetings this year, keeping open the option of an additional meeting if necessary. The March meeting had addressed those items relevant to the theme of market access and had included a substantive, sector specific discussion of the following sectors: agriculture, energy, fisheries, forestry, non-ferrous metals, textiles and clothing, leather and environmental services. The willingness of delegations to engage in focused sector-by-sector discussions based on national experiences should

move forward the process of identifying situations where removing trade restrictions had the potential to be of economic and environmental benefit. In fulfilment of the recommendation in the Report of the CTE to the Singapore Ministerial Conference (WT/CTE/1), the CTE had established at its March meeting a WTO Environmental Database according to which the Secretariat would, on an annual basis, undertake a comprehensive review of all environment-related notifications to continuously up-date the environmental database, which would be available to Members electronically through the Document Dissemination Facility and, conduct an interim review of the glossary of search words used in the compilation of the environmental database, which would be modified as necessary. The development of this environmental database represented an important step towards increasing the transparency of trade-related environmental measures which were notified by WTO Members.

His general objectives as Chairman for the current year would be to further the analysis in the CTE of all items on its work programme in order to increase the understanding of the issues involved. He felt important to continue to broaden the participation in support of the CTE's analysis by inviting Secretariats of those multilateral environmental agreements (MEAs) relevant to the work of the CTE, to inform Members on developments in their respective agreements in order to contribute to the analysis in the CTE of the linkages between the multilateral environment agenda and the multilateral trade agenda. An information session with selected Secretariats of MEAs would be held at the CTE's meeting on 23-24 July. With respect to the issue of broader participation, he noted that in March the Secretariat had successfully organized, under its own responsibility, an NGO Symposium on Trade, Environment and Sustainable Development. The Symposium had included the participation of approximately 150 NGOs, the Director-General of the WTO, the Secretary General of UNCTAD, the Executive Secretary of UNEP, the Deputy Administrator of UNDP and a large number of WTO Members. Finally, at its March meeting, the CTE had agreed to extend observer status to the World Intellectual Property Organization.

Mr. Noirfalisie (Belgium), Chairman of the Committee on Regional Trade Agreements, said that since its 1997 Report to the General Council on 27 November 1997, the Committee had held formal meetings and two informal open-ended meetings in December 1997. In 1998, the Committee's Sixteenth Session had taken place in the week beginning 16 February and an informal meeting had been convened in March. Regarding the examination of regional trade agreements, the Committee was dealing with the examination of 52 agreements. Seven newly notified agreements had been referred to the Committee for examination since its 1997 Annual Report. Currently consultations were under way on draft reports for eleven examinations. Reports were being drafted for 15 agreements whose factual examinations had been finished. Factual examinations were in process for 14 other agreements, and examinations for the remaining twelve agreements which had been referred to the Committee would begin in the course of the year. The Committee had also the mandate "to consider how the required reporting on the operation of such agreements should be carried out and make appropriate recommendations to the relevant body". At its February Session, the Committee had been able to take a decision of principle to adopt procedural recommendations to the Council for Trade in Goods, the Council for Trade in Services and the Committee on Trade and Development on this matter.

The Committee had also the mandate "to consider the systemic implications of such agreements and initiatives for the multilateral trading system and the relationship between them, and make appropriate recommendations". To deepen its understanding of matters identified in the "checklist of systemic issues", the Committee had begun work according to a "three-pronged approach", entailing a legal analysis of relevant WTO provisions, horizontal comparisons of Regional Trade Agreements (RTAs), and debate on the context and economic aspects of RTAs. An updated list of notified RTAs, containing information on the GATT/WTO process, had been prepared by the Secretariat and had been distributed to Members in February. During its last meetings, the Committee had continued its legal analysis of the terms "other regulations of commerce" (and related sub-topics) and "substantially all the trade". In February, the Committee had requested the Secretariat to begin preparations for horizontal comparison work, drawing up an inventory of non-tariff provisions contained in the regional trade agreements notified

to the WTO and identifying variations in such provisions, especially between customs unions and free-trade areas. The Secretariat had held an information meeting to indicate how it was drawing together this inventory. Once the inventory was produced, the Committee would deliberate on how to use this raw material.

Mr. Chowdhury (Bangladesh), Chairman of the Committee on Trade and Development, said that since December 1997 two meetings each of the Committee on Trade and Development and the Sub-Committee on Least-Developed Countries had been held. At the March meeting of the Committee on Trade and Development, the following three issues had been addressed: (i) Technical cooperation and training: The Committee had adopted the manual on technical cooperation and training and had discussed a report by the Secretariat on technical cooperation and training. General satisfaction had been expressed by Members on these papers and the Secretariat's activities in this area. Suggestions as to broadening the scope of technical assistance and cooperation, and making them more hands-on were made. Also, there had been discussions on developing an effective mechanism for monitoring and evaluation. Concern had been raised about the inadequacy, uncertainty and dependence on donor generosity for technical assistance funds. He intended therefore to initiate informal consultations with delegations on this issue and would appraise Members on the outcome in due course; (ii) Implementation of special and differential treatment provisions in favour of developing countries: Members had evinced keen interest on this subject and had expressed a number of constructive views. A note by the Secretariat (WT/COMTD/W/35) had been reviewed by a number of delegations. It had appeared to him that Members needed more time to review this important paper to be able to make substantive comments on its various components. He therefore intended to carry on informal consultations and would revert to this issue for further discussion in the Committee in an informal session; and (iii) Electronic commerce: A paper prepared by the delegation of Egypt had formed the basis of discussions. The delegation of the United States had circulated a paper it had previously introduced at the General Council on this subject. Some Members had provided early, tentative reactions. Considering the importance of the subject and the keen interest displayed by Members on it, which had also been reflected in the discussion of Agenda item 7 of the present General Council meeting, he intended to hold further in-depth discussion on it in the near future and would revert to this issue in the Committee in an informal session.

Also at its March meeting, the Committee had taken note of an oral report by the Secretariat on the issue of the follow-up activities to the High-Level Meeting on Least-Developed Countries, and had formally elected its new Chairman. At its April meeting, the Committee had formally elected the Chairman of the Sub-Committee on Least-Developed Countries and had granted observer status to the UNDP.

At the meeting of the Sub-Committee on Least-Developed Countries in December 1997, progress of work in relation to the follow-up activities to the High-Level Meeting on Integrated Initiatives for Least-Developed Countries had been reviewed. At its April meeting, the Sub-Committee had received an update by the Secretariat on the follow-up to the High-Level Meeting on Integrated Initiatives for Least-Developed Countries. In the debate, special stress had been put on the importance of technical assistance and market access for least-developed countries.

Mr. Jenkins (United Kingdom), Chairman of the Committee on Balance-of-Payments Restrictions, said the Committee had met twice since he last reported on its activities on 10 December 1997. On 17 December, the Committee had completed consultations with the Slovak Republic and had adopted the conclusions contained in WT/BOP/R/40. The Slovak Republic had since notified the Committee of a reduction in its import surcharge from 5% to 3% on 1 April 1998, in accordance with the undertaking it had given during the consultations. On 11-12 February, the Committee had completed consultations with Nigeria which had been suspended on four previous occasions. The Committee had been unable to come to agreed conclusions on a proposal from Nigeria to eliminate a small number of BOP restrictions over a period of five years. He had therefore produced a report on these

consultations which recorded the different views expressed in the Committee, in accordance with paragraph 13 of the Understanding on the BOP Provisions of the GATT 1994.

Mr. Jirapaet (Thailand), Chairman of the Working Group on the Relationship between Trade and Investment, said that at its March meeting, the Working Group had continued its consideration of items I-III of the Checklist of Issues Suggested for Study, which was annexed to the Group's 1997 report, and had started work on item IV of this Checklist by discussing the factual aspects of the first indent of that item. Since December 1997, new submissions had been received from Bolivia; Australia; the United States; Switzerland; the European Community and its member States; Costa Rica; Hong Kong, China; Japan; Cuba and Canada, as well as from UNCTAD and OECD. The Working Group had also recently received background notes by the WTO Secretariat on bilateral, regional, plurilateral and multilateral agreements, the availability of statistics on foreign direct investment and foreign affiliates trade, and outward foreign direct investment from developing countries.

The Chairman, on behalf of the Chairman of the Working Group on the Interaction between Trade and Competition Policy, said that as agreed at its November meeting, the Working Group had taken up at its March meeting item III of the Checklist of Issues attached to the Group's 1997 report, starting with a general discussion of the interaction between trade and competition policy and a consideration of the first indent of the item, namely the impact of the anti-competitive practices of enterprises and associations on international trade. It had also had a further discussion of item II of the Checklist, namely the stocktaking and analysis of existing instruments, standards and activities regarding trade and competition policy, taking up the three indents of that item in the following order: existing WTO provisions; bilateral, regional, plurilateral and multilateral agreements and initiatives; and national competition policies, laws and instruments as they related to trade. Written submissions on these items had been received from Peru; Australia; European Community and its member States; Argentina; Hong Kong, China; Norway; United States; Japan; Poland; Canada; Czech Republic and the Republic of Korea. A non-paper had been presented by Turkey. With regard to the relationship of trade and competition policy to development and economic growth, one of the points under item I of the Checklist, the Working Group had agreed to request the Secretariat to prepare a paper drawing together the work done on this issue, taking account of the work done in UNCTAD and other IGOs and the discussions in the Working Group. With regard to requests for observer status, the Working Group had agreed to revert to requests made by SELA and the Organization of the Islamic Conference at its next meeting. At its forthcoming meetings, the Working Group would continue with the work programme as annexed to its 1997 report to the General Council.

Mr. Corrales Leal (Venezuela), Chairman of the Working Group on Transparency in Government Procurement, said that in February 1998, the Working Group had continued its detailed discussion of transparency-related provisions in existing international instruments on government procurement and national procedures and practices on the basis of an informal note by the Chair listing the issues that had been raised, together with the points made on these issues at the Group's November 1997 meeting. The Working Group had taken up in turn each of the headings to this note, which corresponded to those used in the Secretariat note "Synthesis of the Information Available on Transparency-Related Provisions in Existing International Instruments on Government Procurement Procedures and National Practices", with the addition of a heading on technical cooperation and special and differential treatment. The Working Group would resume its discussion of these topics at its next meeting on the basis of an updated version of the Chairman's note. Written submissions had been received since November 1997 containing factual information on national procedures and practices in Hong Kong, China; the Czech Republic; Uruguay and Australia. Australia, the United States and the APEC Government Procurement Expert Group through its Chair had also made contributions relating to elements of transparency in government procurement

The representative of Egypt expressed gratitude to the Chairpersons for their respective reports and asked whether it would be possible to have a compilation of all these reports in view of Members' preparation for the Ministerial Conference.

The Chairman said it was his understanding that the progress reports would be annexed to the update of the General Council's annual report to be prepared by the Secretariat following the meeting.

The General Council took note of the progress reports and of the statements.

(d) Addendum to the report of the General Council (WT/GC/W/81)

The Chairman recalled that in December 1997, the General Council had agreed that the report of the General Council to the 1998 Ministerial Conference would consist of the 1997 annual reports of the General Council and its subsidiary bodies together with a brief update report of the General Council concerning developments in the first months of 1998. He proposed that the General Council adopt the draft update report contained in WT/GC/W/81 on the understanding that the Secretariat would make the necessary adjustments to the text so as to include matters which had been considered at the present meeting, including the information provided in the oral reports by the Chairpersons of subsidiary bodies under the previous sub-item. This report together with the annual reports for 1997 of the General Council and its subsidiary bodies would be circulated and forwarded to the Ministerial Conference.

The General Council so agreed.

9. Transparency and derestriction

The representative of the United States, speaking under "Other Business", recalled that at the 19 February General Council meeting, her delegation had raised the need for enhanced transparency and increased derestriction of documents, and had drawn attention to the fact that the 1996 Decision on derestriction (WT/L/160/Rev.1) under which Members presently operated called for a review and possible modification of its provisions in the light of experience after two years. With this in mind, the United States had suggested that the General Council should agree to organize informal open-ended consultations with the objective of considering possible modifications to the 1996 procedures. The proposal had enjoyed considerable support, and her delegation asked if the Chairman could inform Members as to his ideas on this matter.

The Chairman recalled that at an informal General Council meeting on 23 February, he had reviewed with delegations the issues on which he believed consultations would be important in the upcoming period, and had identified transparency and derestriction as one of the items. He had suggested that some priority should be given to this issue, but that perhaps it was one which could wait until after the Ministerial Conference to be taken up on consultations under his auspices.

The representative of Canada said that at previous meetings her delegation had also spoken on the need for more transparency in the work of the WTO. In that light, her delegation requested that the document circulated by her Government for the discussion under Agenda item 7 regarding a tariff standstill for electronic commerce (WT/GC/W/82) be issued as a derestricted document.

The Chairman said that Canada's request would be complied with.

The representative of Mexico agreed with the United States that Members had to comply with paragraph 7 of the 1996 Decision and also agreed with the Chairman about the timing. Mexico believed that consultations should take into account the provisions of paragraph 7 of the Decision and should not refer to subjective concepts such as transparency. Mexico would participate in the consultations

in order to comply with paragraph 7, without prejudice to the outcome. When Mexico had participated in the drawing up of the present procedures, it had anticipated an approach somewhat different than that expected by certain Members with regard to the use of WTO documents when they were still restricted.

The General Council took note of the statements.

10. Premature disclosure of dispute settlement panel reports

The Director-General, speaking under "Other Business", said he wished to raise a matter of serious concern that threatened to undermine the WTO's Dispute Settlement Understanding, and one that he hoped Members would discuss in the DSU review later in the year. In this regard, he referred to his earlier statement on this issue at the 19 February General Council meeting. The problem was one of premature disclosure of dispute settlement panel reports. Thus far, almost all interim reports had been leaked, sometimes within hours and usually within a matter of a few days. This caused two fundamental problems: First it threatened the credibility and image of the WTO as an institution. The leaks were often selective and could present a distorted view of the WTO and its dispute settlement system. They were often used by individuals and groups, and reproduced by the media, as a basis for painting the WTO as the enemy of developing countries, consumers and the environment, and as a promoter of protectionism. While these charges could easily be rebutted, they were made under circumstances where he and the Secretariat could not respond without endangering their neutrality. By threatening the credibility and image of the WTO, these leaks imposed significant political costs to the institution, for example, in its relations with NGOs. While leaks might be viewed by some as providing desirable transparency, the WTO still suffered as an institution, because the leaks were made on a selective basis and contrary to the rules. Second, these leaks undermined the dispute settlement system. They stressed the conclusions of the interim panel report, by their nature preliminary and tentative, instead of the final, definitive result of the panel or Appellate Body decision. The creation of these first mis-impressions by selective leaks was highly undesirable because the mis-impressions were unlikely to be correctable later. Moreover, leaks reduced the likelihood of a mutually agreeable solution, which was the preferred result of the DSU and which was the basic reason for revealing the preliminary panel result to the parties in the first place.

There were several suggestions, one or more of which Members might wish to consider, to deal with this problem. One approach would be to minimize the elapsed time between the issuance of the interim report and the circulation of the final panel report to all Members. To do this, Members should devote more resources to the WTO, especially for translation, and should also accept that the so-called descriptive parts of panel reports had become far too long and should be greatly shortened. A second possibility would be to circulate the final panel report to Members as soon as it was available in a working language, it being understood that the official date of circulation for DSU purposes would be the date on which the report was available to Members in all three languages. This would have an added, due process benefit. When reports were available to parties to a dispute long before they were available to other WTO Members, those parties might have an unfair advantage if they were involved in disputes where similar issues were presented. He did not intend to make specific proposals in this regard, and noted that there were other possible solutions and issues to be considered. However, he urged Members to consider the issue of improving transparency pragmatically and expeditiously. Although attention had been drawn to this problem on several occasions by Members in meetings of the DSB, the leaks had continued. Therefore, the issue was how to deal with this matter in a way that minimized the damage to the WTO as an institution and to the integrity of the dispute settlement system.

The representative of the United States welcomed the Director-General's statement because the issue of transparency in the activities of the WTO, particularly dispute settlement proceedings,

required urgent attention. Action was needed to strengthen public confidence in the multilateral trading system, and by increasing the transparency and openness of the WTO dispute settlement proceedings, Members would build public support and enhance the effectiveness and credibility of the WTO system. Members should come to grips with a real problem of public perception that is only enhanced by unnecessarily restricting documents and by delaying the release of panel reports to the public. Members had now had two years of experience with the dispute settlement proceedings, which had demonstrated that the rules requiring confidentiality of dispute settlement proceedings were outdated and unnecessary. The raising of this issue at the present meeting only underscored the need for action as soon as possible, and the United States looked forward with the General Council to finding a solution.

The representative of Indonesia said that the leaking of interim reports of panels was a serious breach of the obligation of confidentiality that Members had agreed to in the DSU. While Indonesia had no specific proposal on how to deal with the problem, it supported wholeheartedly the Director-General's suggestion that this matter should be discussed during the review of the DSU.

The representative of Japan associated his delegation fully with the Director-General's statement. Confidentiality in accordance with the provisions of the DSU was very important, and the leakage of information of the interim report stage was a critical issue. In this connection, he believed that the Director-General's suggestion to minimize the elapsed time between the issuance of the interim and final reports would not be a solution. The only solution was for each Member to abide by what had been agreed in the DSU. His delegation, had itself been placed in a very awkward situation recently by the leaking of the contents of an interim report by another party, and fully shared the concerns expressed by the Director-General. Japan also had a serious problem with the US statement. Transparency in terms of the derestriction of WTO documents was one thing, but transparency in dispute settlement process itself was quite another. He noted that there was a long history behind the question of "transparency" in the dispute settlement proceedings, and that this had been one of the very controversial issues in the finalization of the DSU in 1993, before Members had finally settled on the present language of the DSU. Insisting on transparency in dispute settlement proceedings would mean a renegotiation of the text of the DSU itself.

The representative of Mexico said this was not so much an issue of transparency in the dispute settlement system. He noted that under the current procedures all final reports of panels were available almost immediately to the public as unrestricted documents, even before their adoption or appeal. Members were therefore not being non-transparent. Mexico was concerned that panel reports were made available to the public when they were not yet final. Such developments could lead to a change in the very nature of the reports by subjecting them to external pressures of a non-legal kind. The failure of panels to base themselves on legal reasoning and to begin to take account of public opinion would be wrong. The WTO should instead better inform public opinion so that it was not misguided by certain vested interests. The problem was therefore not one of improving transparency, but rather one of improving respect for the guidelines that all had agreed to and of enforcing compliance.

The representative of Tunisia, speaking in his capacity as Chairman of the Dispute Settlement Body, said that this matter had been raised by Indonesia at a meeting of the DSB the previous day, and there had been a brief exchange of views on it. He shared the previous speakers' concerns as also those of the Director-General. Leaks of this type seemed to him sometimes not to be accidental, and this could destabilize the very system of dispute settlement within the WTO. This was a matter that should therefore be considered very seriously, and he suggested that it should be looked at in the course of the review of the DSU.

The representative of Thailand said that the breach of confidentiality would have far-reaching negative implications for the WTO and its dispute settlement procedures. This matter should therefore be addressed urgently.

The representative of Colombia said that delegations had spent a lot of time attempting to establish rules about confidentiality and the derestriction of documents. He believed Members had to avoid giving rise to a situation where public opinion could have leverage over or apply undue pressure on final rulings by panels. It was scandalous to see press leaks about panel reports still at an interim stage, and editorials in important newspapers the world over making non-impartial accusations about the WTO or about Member governments. Like others, he believed that the question of premature leaks of panel reports had to be taken very seriously by Members as well as the Secretariat.

The General Council took note of the statements.

11. Accession of Azerbaijan
- Chairmanship of the Working Party

The Chairman, speaking under "Other Business", informed the General Council that, following consultations, Mr. W. Höynck (Germany) had agreed to serve as Chairman of the Working Party on the Accession of Azerbaijan.

The General Council took note of this information.

The representative of Japan said that while his delegation fully supported the appointment of chairpersons that were very well qualified, and was pleased that the Chairman and the Secretariat were trying to increase transparency in the appointment of chairpersons for accession working parties, he wished to know whether the appointments were made by the Chairman of the General Council and the Council subsequently informed, or whether the appointments were a matter for decision by the General Council.

The Chairman said it was his understanding that at the time of establishment of a working party on accession it was normal practice for the General Council to authorize its Chairman to appoint the chairperson for that working party in consultation with Members and with the acceding country in question. In the case of the appointments under this item and the next, this was the process that had been followed. Consultations had been held and the matter was now being brought forward to the General Council for the Council to take note of the action that had been taken pursuant to its earlier request.

The representative of Japan asked whether the process outlined by the Chairman was an interpretation of practice or whether there was a written rule somewhere.

Mr. Barthel-Rosa, Secretary of the General Council, said that it had been the practice going back into GATT years that when a working party on accession was established, the Council -- now the General Council -- authorized its Chairman to consult and designate a chairperson for that working party. So, in effect, the Council delegated its powers of appointment. Accordingly, the Chairman of the General Council consulted with Members and, if there were no objections, appointed a chairperson and formally informed the General Council of his decision. This authority was delegated to him by the General Council at the moment the Council established the working party. This was an established practice, and not a rule.

The General Council took note of the statements.

12. Accession of Laos
- Chairmanship of the Working Party

The Chairman, speaking under "Other Business", informed the General Council that, following consultations, Mr. G. Raby (Australia) had agreed to serve as Chairman of the Working Party on the Accession of Laos.

The General Council took note of this information and of the statements by Japan, the Chairman and the Secretary of the General Council under Item 11.

13. Daily Bulletin

The Chairman, speaking under "Other Business", recalled that in July 1997, the General Council had agreed that the Secretariat should issue a Daily Bulletin, in English only, for a trial period of three months beginning in September 1997, and that the issuance of the Bulletin be reviewed in the light of experience and financial implications if any. In December 1997, the General Council had agreed that the Bulletin be issued for a further trial period of three months in English only, since its issuance in French and Spanish would have financial implications that would have to be examined by the Budget Committee. It appeared that delegations regarded the issuance of the Daily Bulletin as useful, and he proposed therefore that it continue to be issued by the Secretariat.

The General Council so agreed.
